

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

QUALITY LEASING CO., INC.,)	
)	
Plaintiff,)	
)	
v.)	Case No. 1:18-cv-01969-TWP-MG
)	
INTERNATIONAL METALS LLC,)	
MANISH PUSHYE, VALLEY FORGE)	
EQUIPMENT, INC., MAZYAR MOTRAGHI,)	
and ROBERT STEIN,)	
)	
Defendants.)	
)	
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INTERNATIONAL METALS LLC and)	
MANISH PUSHYE,)	
)	
Counterclaimants,)	
)	
v.)	
)	
QUALITY LEASING CO., INC.,)	
)	
Counterclaim Defendant.)	
)	
<hr style="width: 40%; margin-left: 0;"/>		
INTERNATIONAL METALS LLC, MANISH)	
PUSHYE, and QUALITY LEASING CO., INC.,)	
)	
Third Party Plaintiffs,)	
)	
v.)	
)	
VALLEY FORGE EQUIPMENT, INC. and)	
ROBERT STEIN,)	
)	
Third Party Defendants.)	
)	
<hr style="width: 40%; margin-left: 0;"/>		
VALLEY FORGE EQUIPMENT, INC. and)	
ROBERT STEIN,)	
)	
Third Party Plaintiffs,)	
)	
v.)	

MAZYAR MOTRAGHI,)
)
Third Party Defendant.)
_____)
MAZYAR MOTRAGHI,)
)
Counterclaimant,)
)
v.)
)
VALLEY FORGE EQUIPMENT, INC. and)
ROBERT STEIN,)
)
Counterclaim Defendants.)

ORDER ON PENDING MOTIONS

This matter is before the Court on several pending motions: (1) *pro se* Defendant/Counterclaimant Mazyar Motraghi's ("Motraghi") Motion for his Witness Manish Pushye to Testify Remotely ([Filing No. 351](#)), (2) Defendants Valley Forge Equipment, Inc.'s ("Valley Forge") and Robert Stein's ("Stein") Motion to Appear Remotely and for Witness Jim Czosnyka to Appear Remotely ([Filing No. 355](#)), and (3) Valley Forge's and Stein's Alternative Motion to Vacate the May 13, 2021 Entry or to Continue the Jury Trial ([Filing No. 356](#)).

Plaintiff Quality Leasing Co., Inc. ("Quality Leasing") initiated this action bringing a claim for breach of contract and other related claims arising out of a Master Lease Agreement as it relates to the purchase and financing of an automobile logger bailer. The Motions currently before the Court were filed following much litigation and the final pretrial conference. A telephonic status conference is scheduled for June 1, 2021 and the jury trial is set to proceed on June 29, 2021. The Court will address each of the pending Motions in turn.

A. Motraghi's Motion for His Witness Manish Pushye to Testify Remotely

Motraghi named Manish Pushye ("Pushye") as a witness for trial. Pushye and his company, International Metals, are defendants in this case, but at the May 10, 2021 status conference, Motraghi learned that Pushye and International Metals are not considered participating parties for the upcoming jury trial on June 29, 2021, because they have assigned and transferred all of their right, title, interest, and remedies to Quality Leasing. (See Filing No. 202, Filing No. 214). Thereafter, Motraghi communicated with counsel for Pushye who agreed to a subpoena for Pushye if he were allowed to testify remotely at trial. Motraghi asserts that Pushye resides in Arizona, and it would be costly and unduly burdensome for him to travel to Indiana for trial. Motraghi asks the Court to allow Pushye to appear and testify remotely via video conferencing ([Filing No. 351](#)).

Valley Forge and Stein notified the Court that they do not object to Pushye appearing and testifying remotely during the jury trial ([Filing No. 354](#)). Quality Leasing has not objected to Pushye appearing and testifying remotely. The Court, finding good cause in Motraghi's Motion, **grants** the request, and Pushye may testify at the June 29, 2021 jury trial via video teleconference technology.

B. Valley Forge and Stein's Motion to Appear Remotely and for Witness Jim Czosnyka to Appear Remotely

Valley Forge and Stein ask the Court to allow them to appear remotely for the jury trial and also to allow their witness, Jim Czosnyka ("Czosnyka"), to appear and testify remotely. They state that, at the May 10, 2021 status conference, the parties discussed that each of them had no objection to allowing witnesses and the parties to appear remotely at trial. They report that Czosnyka recently had back surgery, and he resides in New York. They also assert that the Court previously authorized Motraghi to appear remotely for trial. Thus, they ask the Court to allow them and Czosnyka to appear remotely for the upcoming jury trial ([Filing No. 355](#)).

Valley Forge and Stein's Motion is **granted in part and denied in part**. The Court agrees that good cause exists to allow Czosnyka, a non-party witness, to appear and testify remotely at trial based on his residency in New York and recently having undergone back surgery. Accordingly, Czosnyka may appear and testify remotely.

However, allowing Valley Forge, Stein, and counsel to appear remotely for the jury trial would be disrespectful to the jurors who will be in person in the courthouse for trial. Valley Forge and Stein have provided no reason for their requests to appear remotely as parties in this case. Their situation is distinguishable from Motraghi's situation—he resides in Canada and because of his immigration status cannot enter the United States to participate in person during trial. Just as the Court and its staff and the jurors are required to appear in person, Valley Forge, Stein, and their counsel must appear in person for the jury trial on June 29, 2021.

Alternatively, if all parties consent to a bench trial, the Court is willing to conduct a remote bench trial.

C. Valley Forge and Stein's Alternative Motion to Vacate the May 13, 2021 Entry or to Continue the Jury Trial

Lastly, Valley Forge and Stein ask the Court to either vacate its May 13, 2021 Entry granting Quality Leasing's Motion for Rule 54(b) Certification ([Filing No. 350](#)) or continue the June 29, 2021 jury trial. Valley Forge and Stein explain,

Pursuant to Rule 62(a) execution on a judgment and proceeding to enforce it are stayed for 30 days after its entry, unless the court order[s] otherwise.

Valley Forge Equipment, Inc. has until June 12, 2021 to file a Notice of Appeal. Robert Stein has until June 10, 2021 to file a motion for a new trial.

Magistrate Judge Garcia has scheduled a settlement conference for June 16, 2021.

In its entry following the final pre-trial conference on February 5, 2021 [Doc. 333], the court set numerous pre-trial requirements from June 4, 2021 through June 18, 2021.

([Filing No. 356 at 2.](#))

Valley Forge and Stein assert that Quality Leasing has taken the position that it could possibly execute upon and take over Valley Forge's claims against Motraghi thereby taking control of the litigation. Valley Forge and Stein assert that, if this is permitted, it would complicate and undermine their position at trial against Motraghi. They argue that they "should not be required to devote the time, effort and expense in defending and responding to Quality Leasing's execution and proceedings to enforce its judgment while at the same time preparing for a jury trial approximately 2 weeks later." *Id.* at 3. Therefore, they ask the Court to either vacate its May 13, 2021 Entry granting Quality Leasing's Motion for Rule 54(b) Certification or continue the June 29, 2021 jury trial by at least forty-five days.

Quality Leasing responds that it agrees with the suggestion of postponing the jury trial by at least forty-five days, but it objects to vacating the Entry granting Quality Leasing's Motion for Rule 54(b) Certification ([Filing No. 357](#)).

The Court first notes that Valley Forge and Stein provided no legal support for their Motion, and they failed to advance any legal or factual basis that would warrant vacating the Court's Rule 54(b) Certification Entry. Therefore, that request is summarily **denied**.

As to Valley Forge's and Stein's request to postpone the June 29, 2021 jury trial, it appears that this request is made to provide additional time for trial preparation and to avoid potential diverging obligations for trial preparation and proceedings supplemental. These reasons do not justify yet another postponement of trial in this old case. The parties have had significant time to prepare for trial, and any trial preparation immediately before trial will inevitably be a busy time


for counsel. In addition, there is no indication that proceedings supplemental actually have been initiated and such that it will conflict with trial preparation. Because of the age of this case and numerous times that trial has previously been continued, the Court **denies** Valley Forge's and Stein's alternative request to postpone the June 29, 2021 jury trial. The time to dispose of this case is upon us, and the court declines all requests to again postpone the trial.

CONCLUSION

For the foregoing reasons, the Court **GRANTS** Motraghi's Motion for His Witness Manish Pushye to Testify Remotely ([Filing No. 351](#)). The Court **GRANTS in part and DENIES in part** Valley Forge's and Stein's Motion to Appear Remotely and for Witness Jim Czosnyka to Appear Remotely ([Filing No. 355](#)). Witnesses Pushye and Czosnyka may appear and testify remotely at the jury trial. Valley Forge, Stein, and their counsel must appear in person for trial. The Court **DENIES** Valley Forge's and Stein's Alternative Motion to Vacate the May 13, 2021 Entry or to Continue the Jury Trial ([Filing No. 356](#)). This matter remains set for an in-person jury trial to begin on June 29, 2021.

SO ORDERED.

Date: 5/28/2021



Hon. Tanya Walton Pratt, Chief Judge
United States District Court
Southern District of Indiana

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